

ARTICLE APPEARED
ON PAGE 38

TIME
14 DECEMBER 1981

Wrist Slap

Misdemeanor for a shooting

After listening to three weeks of sharply conflicting evidence, studying 28 separate instructions on the law from the judge, and going into seclusion to weigh six possible guilty verdicts, the jurors in a Fort Collins, Colo., courthouse had every right to be confused. At issue were such wispy questions as whether Eugene Tafoya, 45, a much decorated former Green Beret, was working for the CIA or, in effect, for Libya's Muammar Gaddafi, when Tafoya knocked on the door of Libyan Student Faisal Zagallai, 36, in Fort Collins on Oct. 14, 1980, and left the outspoken anti-Gaddafi dissident lying on the floor with two bullet wounds in his head.

The jury deliberated for three days before finally rendering a verdict that was almost as mystifying as the case itself. The jury found Tafoya guilty only of two misdemeanors: third-degree assault and conspiracy to commit this assault. Maximum sentence: 24 months and a \$5,000 fine. Had he been convicted of attempted murder and conspiracy to commit murder, as the prosecution charged, he would have faced up to 24 years in prison.

The jurors did not accept the prosecution's claim that Tafoya had been hired by Edwin Wilson, a former CIA agent now working for Gaddafi in Tripoli, to kill Zagallai because the Colorado State student had criticized the Libyan dictator. Still, they did seem to conclude that some un-

known other conspirators had sent Tafoya to rough the student up. The fact that Zagallai ended up blinded in one eye, rather than dead, apparently impressed the jurors that Tafoya had not been bent on murder. They were also told by the defense that Tafoya fired his gun only after a struggle during which Zagallai reached for a weapon of his own.

The evidence against Tafoya included a transcript of a telephone conversation in which he asked a Wilson associate whether he knew of "anyone who should quit breathing—permanently." The prosecution contended that this was an offer by Tafoya to become a hired killer.

While Tafoya admitted working with Wilson in Libya, he said he did so as an undercover agent for the CIA, which understandably wanted to know what was going on in Gaddafi's inner circles. Tafoya's lawyer added another layer of complexity by suggesting that Wilson, too, might have been working under "deep cover" in Libya for the CIA. Tafoya's real mission in approaching Zagallai, the defense claimed, was to carry a message from the CIA asking the student to tone down his rhetoric on Middle East issues. But several jurors said after the verdict that they did not believe this story, either.

Apparently the jury did not find either side's case convincing and compromised with a slap-on-the-wrist verdict. ■